

## ROUTING AND TRANSMITTAL SLIP

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20 Sep 83

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## REMARKS

The attached background paper relates to RMD's contacts with the Agency Historian on the question of public access to OSS records. We understand the DDA is in touch with a special assistant to the DCI on this subject, as a result of an item in the latest DDA weekly report.

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FROM: (Name, org. symbol, Agency/Post)

Room No.—Bldg.

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5041-102

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### Background Information on OSS Records

Personnel of the Records Management Division, OIS, recently met with Dr. Kenneth McDonald, the Agency Historian, to discuss his efforts to determine whether OSS records held by CIA and the National Archives and Records Service (NARS) can be made available to the public. Dr. McDonald was tasked by the DCI to look into the possibility of lifting the restrictions on public access to the 198 cubic feet of OSS records transferred to NARS in 1980 and the approximately 3,000 cubic feet still in the Agency Archives and Records Center.

As the component responsible for management of Agency records, OIS wanted to ensure that Dr. McDonald was fully aware of the background on the restriction on these records and of the component equities involved. Dr. McDonald indicated that he will prepare a report for the DCI, based on discussions with all parties concerned, recommending possible ways of dealing with this restriction. This report will be coordinated in draft with all concerned components. If the DCI decides to change the restriction or to transfer additional OSS records, OIS will have the responsibility for working out the details for implementing this decision with NARS. The following paragraphs discuss the origin of this restriction and describe the current status of OSS record holdings.

The CIA review of OSS records began in 1978 primarily in response to the requirements of Executive Order 12065 which required the systematic review for declassification of all permanent, classified records over 20 years old. Consistent with this review, the DO, as executive agent for these records, requested an opinion from the Office of General Counsel concerning the Agency's responsibility and authority to determine the proper disposition of the approximately 6500 cubic feet of Office of Strategic Services (OSS) records. These records had been in the custody and control of the Agency since 26 September 1947, the effective date of the National Security Act. OGC responded (OGC 78-3944, dtd 16 June 78), after a substantial review of available information, that these documents had become the property of CIA and that the Agency has the responsibility and authority to make appropriate determination of these records.

In early 1978, a NARS appraiser was assigned to work with DDA and DDO representatives to determine the disposition of these records and to prepare a records control schedule covering all OSS records. As a result of this process, Part I of the OSS Records Control Schedule was approved by NARS on 16 May 1979. Subsequently, in January 1980, the Agency transferred 198 cubic feet of declassified permanent OSS records. As part of this transfer, the Agency stipulated two specific restrictions to be imposed by NARS prior to the release of OSS information to the public:

- a. Foreign Government Information must be afforded protection and will not be released without the prior approval of the government involved.
- b. In keeping with the provisions of the Privacy Act, information concerning the affiliation of U.S. persons with OSS may not be released without the consent of the person involved.

These restrictions were jointly formulated by DDA and DDO representatives and accepted in writing by NARS prior to the January 1980 transfer.

Part II of the OSS records control schedule was approved by NARS on 28 April 1982 and covered all remaining OSS records held by the Agency. Of the 6500 cubic feet of records appraised by NARS under Parts I and II of the OSS schedule, approximately 3000 cubic feet were designated as permanent, including the 198 cubic feet transferred to NARS. These records were reviewed and declassified by a team of retired Agency employees (a portion of the OSS records, less than 10%, remains classified and has been marked for removal before any records are transferred to NARS). The remaining approximately 3300 cubic feet were designated as temporary records and already have been or will be destroyed in accordance with the disposition instructions of the approved records control schedule.

Since the January 1980 transfer, various NARS officials have voiced concern that, in order to make full use of the OSS records, they would have to clear sensitive information relating to employment and personal activities with the U.S. person concerned before release to the public. Because of the burden of checking with each person, NARS feels it would be impractical to use many of the records. In addition, historians and researchers have expressed concern and disappointment that they still do not have access to the OSS records even though they have been declassified.

Prior to Dr. McDonald's current effort, informal discussions were held with NARS in an effort to resolve the restriction question. One alternative discussed was a 75 year restriction (counted from 1945) which would permit the release of this information in the year 2020. This was not acceptable to NARS. The Agency and NARS have been unable to arrive at any other mutually acceptable alternative that would meet DDO's continuing concern for the privacy of certain individuals who were involved in sensitive OSS activities. The Agency has offered to take back the 198 cubic feet of records from NARS and to continue to process requests for OSS information as we have done over the years. NARS has not officially responded to this proposed retransfer.

27 May 1981

MEMORANDUM FOR: Director of Information Services

FROM:

[REDACTED]  
Chief, Classification Review Division

SUBJECT: Weekly Report, 21-27 May 1981

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1. On 21 May, C/INT provided a briefing on the DARE SYSTEM to personnel of the Division and the OIS.

2. As a result of a phone call from John E. Taylor at Modern Military Archives at NARS, C/OPS visited Mr. Taylor to discuss the Department of Justice assignment of a man on contract to review OSS R&A files at NARS relative to DOJ's investigation into former Nazi war criminals illegally living in the U.S. The OSS R&A files, 1,000 cu. ft. of field and finished reporting, were reviewed by our OSS Review Team in 1975-76 and over 90% were declassified. The DOJ contractor, Mark Masurovsky, has asked Mr. Taylor for access to some of the OSS R&A reports that were withdrawn and held classified. Mr. Taylor asked for instructions from CIA on how they want this request handled. [REDACTED]

[REDACTED] C/OPS expressed the opinion that Masurovsky, who is an employee of a commercial firm, should be treated like any other independent researcher

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because he is not a full-fledged employee of DOJ and therefore should not be given automatic access to classified information. There is no question that after seeing such records, DOJ representatives must get them and any notes taken from them cleared through CIA before they can be used in a non-classified setting. We have coordinated this matter with DO/IMS which has been the prime liaison with DOJ's investigators throughout the course of their activities. DO/IMS will pursue the matter of Mr. Masurovsky's clearance and access with OGC and OS.

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Attachments:

1. Division and Branch Statistical Summaries
2. DARE System Weekly Report